

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF CATTARAUGUS

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DOUGLAS WOODIN

Index No. _____

Plaintiff,

- against -

**VERIFIED
COMPLAINT**

SALAMANCA CITY CENTRAL SCHOOL DISTRICT
and MICHAEL DUPONT

Defendants.
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Plaintiff Douglas Woodin by his attorneys Hach Rose Schirripa & Cheverie LLP, complaining of the Defendants Salamanca City Central School District and Michael DuPont and respectfully alleges:

NATURE OF THE ACTION

1. This is a revival action brought pursuant to the New York Child Victims Act (the “CVA”), C.P.L.R. § 214-g. The CVA opened a historic one-year one-time window for victims and survivors of childhood sexual abuse in the State of New York to pursue lapsed claims. Prior to the passage of the CVA, each Plaintiff’s claims were time barred the day they turned 22 years old.

2. Douglas Woodin (“Plaintiff”) is bringing suit to recover damages as a result of the repeated sexual abuse he endured at the hands of Defendant Michael DuPont at Salamanca Middle/High School, operated and managed by Defendant Salamanca City Central School District.

3. As a result of the passage of the CVA, Plaintiff can now pursue restorative justice. Plaintiff brings suit to vindicate his rights.

PARTIES

4. Plaintiff is an individual who is a resident of Cattaraugus County, State of New York. At all times relevant, Plaintiff resided in Cattaraugus County.

5. Salamanca City Central School District ("SCCSD") was and is a municipal corporation and local educational agency which maintains its principal place of business at 50 Iroquois Drive, Salamanca, New York, 14779, in Cattaraugus County.

6. SCCSD owns, operates, maintains, controls and operates the Salamanca City Middle/High School (the "School" or the "Premises") located at 50 Iroquois Drive, Salamanca, New York, 14779, in Cattaraugus County.

7. Michael DuPont ("DuPont") is an individual who is a resident of Cattaraugus County. At all relevant times, DuPont was an employee of Salamanca City School District at all times relevant to this Complaint.

8. At all times relevant to this Complaint, DuPont worked as a teacher at the Salamanca City Middle/High School.

JURISDICTION AND VENUE

9. This Court has jurisdiction over the claims asserted herein pursuant to C.P.L.R. §§ 301 and 302, in that Defendants reside in New York.

10. Venue for this action is proper in the County of Cattaraugus pursuant to C.P.L.R. § 503 in that one or more Defendants reside in this County and a substantial part of the events and omissions giving rise to the claim occurred in Cattaraugus County.

FACTS COMMON TO ALL CAUSES OF ACTION

Plaintiff Meets DuPont and DuPont Manipulates Plaintiff into Trusting Him

1. In or around September 2002, Plaintiff entered the seventh grade at Salamanca Middle/High School.

2. As Plaintiff entered the seventh grade, he was placed in a special education program due to behaviors associated with having Tourette's syndrome.

3. As a result of his Tourette's syndrome, Plaintiff was placed in an in-house suspension because he failed to control his Tourette's related tick.

4. In or around the early part of the 2002-2003 school year, DuPont was the teacher assigned to monitor those students assigned to in-school suspension.

5. In or around the early part of the 2002-2003 school year, on a particular day, Plaintiff was the only student serving in-school suspension, leaving him alone in the room with DuPont.

6. DuPont is a sexual predator who sought out children to abuse. He particularly targeted children who were at risk or who came from broken or single parent homes.

7. As a Salamanca Middle/High School teacher, DuPont developed a questionnaire at the beginning of the school year to determine the backgrounds of students and learn such things as whether the children came from broken or single-parent homes.

8. Plaintiff fit the stereotype of students DuPont preyed upon.

9. Plaintiff was ostracized from other students and had no friends. Indeed, Plaintiff was bullied as a result of his Tourette's syndrome. Plaintiff also came from a single parent home.

10. DuPont was aware of Plaintiff's status as an outcast within the school and that Plaintiff came from a single parent home.

11. In or around the early part of the 2002-2003 school year DuPont reached out to Plaintiff and began his campaign to manipulate Plaintiff and earn his trust.

12. Assuring Plaintiff that he would help Plaintiff make new friends, DuPont began to bond with Plaintiff, talking to him and listening and generally providing him attention. Eventually, DuPont began to show Plaintiff favoritism in the classroom and give him special privileges in the classroom.

13. DuPont began to provide Plaintiff with presents, such as CDs DuPont created with Plaintiff's favorite music on them.

14. In or around the early part of the 2002-2003 school year, during classes taught by DuPont, Plaintiff was allowed to sit at DuPont's desk and play games on the school laptop.

15. While DuPont taught class, he would show pornography to Plaintiff. This pornography would feature young boys engaged in sexual acts.

DuPont Sexually Assaults Plaintiff

16. Within two weeks of meeting Plaintiff, DuPont began to call Plaintiff by the nickname "Slick" because of Plaintiff's ability to dodge DuPont's sexual overtures and advances slyly.

17. Eventually, DuPont began to touch Plaintiff's penis in the classroom on a regular basis.

18. On a particular day, in or around the early part of the 2002-2003 school year, DuPont then forcibly placed his erect penis in Plaintiff's mouth. He repeated this behavior on multiple occasions in and around Salamanca Middle/High School, including in classrooms and sometimes in the backroom of Plaintiff's science classroom.

19. DuPont took every opportunity available to sexually abuse Plaintiff. He even created opportunities. Specifically, DuPont created a fake permission slip for a trip and asserted that he was taking several students to the Gotcha Paintball range on a weekend.

20. At all times relevant hereto, Gotcha Paintball range was owned and operated by DuPont's family and thereby allowed DuPont to have unfretted privacy.

21. DuPont assured Plaintiff's mother that he was taking a group of students to this trip, and as such Plaintiff's mother signed this fraudulent permission slip.

22. On the day of the trip, DuPont arrived at Plaintiff's house to pick him up. No other students were present. In fact, despite assertions that he was picking up other students, DuPont never picked up another student.

23. Upon arrival at the Gotcha Paintball range, DuPont began to sexually assault Plaintiff. DuPont spent the entire day forcing his erect penis into Plaintiff's mouth.

24. Plaintiff's sexual abuse at the hands of DuPont continued for a year until Plaintiff reached eighth grade.

25. At no time in the year of forced sexual activity described herein did Plaintiff provide consent to engage in these acts with DuPont.

26. At no time in the year of forced sexual activity described herein could Plaintiff legally provide his consent to engage in these acts with DuPont.

27. At all times, the conduct alleged herein violated New York State's Penal Code.

28. Upon information and belief, DuPont sexually abused other students at Salamanca Middle/High School around the same age as Plaintiff in and around the same time as Plaintiff.

29. As a result of DuPont's illegal acts against Plaintiff and other students at Salamanca Middle/High School, DuPont was arrested.

30. DuPont was convicted for his crimes in October 2008.

31. DuPont, who was suspended following his arrest, was also required to surrender his teaching license.

32. DuPont is currently on the New York State Sex Offenders' Registry.

33. As a direct result of the Defendants' conduct described herein, Plaintiff has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION SEXUAL ABUSE AGAINST MICHAEL DUPONT

34. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs "1" through "32" as if fully set forth herein.

35. DuPont did sexually assault, sexually abuse, and/or have sexual contact with Plaintiff in violation of the laws of the State of New York.

36. By sexually assaulting, sexually abusing, and/or having sexual contact with Plaintiff, DuPont placed Plaintiff in imminent and reasonable apprehension of harmful and offensive contact.

37. By sexually assaulting, sexually abusing, and/or having sexual contact with Plaintiff, DuPont acted so as to cause unjustified, harmful and offensive physical contact with Plaintiff.

38. As a direct result of Defendants' conduct Plaintiff has suffered the injuries and damages described herein.

39. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**SECOND CAUSE OF ACTION
VICARIOUS LIABILITY IN RESPONDENT SUPERIOR
AGAINST SCCSD**

40. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “32” as if fully set forth herein.

41. SCCSD was and is vicariously liable in *respondeat superior* to Plaintiff for DuPont’s foregoing unlawful conduct in that said acts were reasonably foreseeable by SCCSD and within the general scope of his employment.

42. SCCSD was and is vicariously liable in *respondent superior* to Plaintiff for DuPont’s foregoing unlawful conduct for given prior instances of similar conduct of DuPont and other employees, agents, and/or servants, as well as SCCSD’s failure to respond accordingly, such unlawful conduct was reasonably foreseeable, and within the general scope of SCCSD’s business in that due to prior known instances of similar conduct on part DuPont, the herein actions of same could have been reasonably foreseen by SCCSD; and, therefore, SCCSD assumed a relationship requiring it be responsible for Plaintiff’s safety and protection.

43. As a result of the foregoing the Plaintiff has been caused to suffer and sustain severe and potentially permanent personal injuries, including severe injury and potentially permanent injury to her emotional and psychological well-being.

44. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**THIRD CAUSE OF ACTION
NEGLIGENCE IN HIRING, RETENTION, AND SUPERVISION
AGAINST SCCSD**

45. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “32” as if fully set forth herein.

46. That Defendant employer SCCSD negligently hired and/or retained its employee DuPont with knowledge of DuPont’s propensity for the type of behavior which resulted in plaintiff’s injuries in this action.

47. That SCCSD negligently placed its employee DuPont in a position to cause foreseeable harm, which most probably would not have occurred had the employer taken reasonable care in the hiring of employees.

48. That SCCSD negligently hired and/or retained its employee DuPont, negligently placed its employee DuPont in a position to cause foreseeable harm, which Plaintiff would not have been subjected to, had Defendant employer SCCSD taken reasonable care in supervising or retaining the employee DuPont.

49. That SCCSD knew or should have known of its employee DuPont’s propensity for the conduct that caused Plaintiff’s injuries.

50. That SCCSD negligently failed to properly train and/or supervise its employeeé DuPont.

51. That as a result of the foregoing Plaintiff was seriously and permanently injured.

52. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of SCCSD in the ownership, operation, management, maintenance, control, security and supervision of the premises and employees within the premises.

53. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendant SCCSD without any negligence on the part of the Plaintiff contributing thereto.

54. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**FOURTH CAUSE OF ACTION
INADEQUATE SECURITY
AGAINST SCCSD**

55. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs "1" through "32" as if fully set forth herein.

56. That SCCSD negligently failed to provide adequate security to Plaintiff while Plaintiff was lawfully within the premises.

57. That SCCSD negligently failed to provide adequate security to Plaintiff while Plaintiff was lawfully within the premises and while defendant had knowledge of its employee DuPont's propensity for the type of behavior which resulted in Plaintiff's injuries in this action.

58. That SCCSD negligently failed to safeguard Plaintiff Woodin, a minor.

59. That SCCSD knew or should have known of its employee DuPont's propensity for the conduct that caused Plaintiff's injuries and negligently failed to take reasonable measures to protect and provide security to the Plaintiff.

60. That as a result of the foregoing Plaintiff was seriously and permanently injured.

61. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of SCCSD in the ownership, operation, management, maintenance, control, security and supervision of the premises and employees within the premises.

62. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendant SCCSD and, without any negligence on the part of the Plaintiff contributing thereto.

63. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**FIFTH CAUSE OF ACTION
NEGLIGENCE
AGAINST SCCSD**

64. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs "1" through "32" as if fully set forth herein.

65. In or around the 2002-2003 school year, Defendant SCCSD owned, operated, managed, maintained, controlled, secured and supervised the premises and employees within the premises.

66. In or around the 2002-2003 school year, Defendant SCCSD as the owner, operator, supervisor and manager of the premises and the employees within the Premises had a duty to protect the Plaintiff from injury while Plaintiff was lawfully within the Premises.

67. That in or around the 2002-2003 school year, Defendant SCCSD while lawfully upon the premises, Plaintiff was caused to be repeatedly injured solely and wholly due to the negligence and carelessness of Defendant SCCSD.

68. That solely and wholly by reason of the foregoing, Plaintiff was injured.

69. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of Defendant SCCSD in the ownership, operation, management, maintenance, control, security and supervision of the Premises and the employees within the Premises known as Salamanca City Middle/High School.

70. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the SCCSD, without any negligence on the part of the plaintiff contributing thereto.

71. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**SIXTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
AGAINST DUPONT**

72. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “32” as if fully set forth herein.

73. DuPont, by reason of his aforementioned unlawful conduct, has intentionally inflicted emotional distress upon the Plaintiff, in that he intentionally, by extreme and outrageous conduct, caused severe and emotional distress to the Plaintiff, in that, he with clear purpose to do so or despite significant knowledge and without Plaintiff’s consent and/or permission repeatedly subjecting Plaintiff to sexual abuse and assault including forcing Plaintiff to perform oral sex, the aforementioned acts causing the Plaintiff severe and emotional distress.

74. As a result of the aforementioned intentional infliction of emotional distress, the Plaintiff has been caused to suffer and sustain severe and potentially permanent personal injuries including severe injury and potentially permanent injury to his emotional and psychological wellbeing.

75. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**SEVENTH CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
AGAINST DUPONT**

76. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “32” as if fully set forth herein.

77. DuPont, by reason of his aforementioned unlawful conduct, has negligently inflicted emotional distress upon the Plaintiff, in that, he breached a duty of care owed to the Plaintiff, thereby directly and genuinely causing his emotional harm.

78. DuPont, breached a duty of a care owed to the Plaintiff, and thereby directly and genuinely caused emotional harm thereto in that, he without the Plaintiff’s consent subjecting Plaintiff to sexual abuse and assault including forcing Plaintiff to perform oral sex, the aforementioned conduct directly and genuinely causing severe injury to the Plaintiff’s emotional and psychological well-being.

79. As a result of the foregoing negligent infliction of emotional distress, the Plaintiff has been caused to suffer and sustain severe and potentially permanent personal injuries, including severe injury and potentially permanent injury to his emotional and psychological well-being.

80. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**EIGHTH CAUSE OF ACTION
VICARIOUS LIABILITY IN RESPONDENT SUPERIOR
AGAINST SCCSD**

81. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “32” as if fully set forth herein.

82. SCCSD was and is vicariously liable in *respondeat superior* to Plaintiff for DuPont’s foregoing unlawful conduct in that said acts were reasonably foreseeable by SCCSD and occurred within the general scope of DuPont’s employment.

83. SCCSD was and is vicariously liable in *respondent superior* to Plaintiff for DuPont's foregoing unlawful conduct for given prior instances of similar conduct of DuPont and other employees, agents, and/or servants, as well as SCCSD's failure to respond accordingly, such unlawful conduct was reasonably foreseeable, and within the general scope of SCCSD's business in that due to prior known instances of similar conduct on the part of DuPont, the herein actions of same could have been reasonably foreseen by SCCSD; and, therefore SCCSD assumed a relationship requiring it be responsible for Plaintiff's safety and protection.

84. As a result of the foregoing the Plaintiff has been caused to suffer and sustain severe and potentially permanent personal injuries, including severe injury and potentially permanent injury to his emotional and psychological well-being.

85. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**NINTH CAUSE OF ACTION
VICARIOUS LIABILITY PREMISED UPON APPARENT AUTHORITY
AGAINST SCCSD**

86. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs "1" through "32" as if fully set forth herein.

87. SCCSD was and is vicariously liable to the Plaintiff premised upon apparent authority in that SCCSD created an appearance of authority on the part of DuPont upon which, the Plaintiff reasonably relied, thereby enabling DuPont to successfully perpetrate misconduct against the Plaintiff.

88. As a result of the foregoing the Plaintiff has been caused to suffer and sustain severe and potentially permanent personal injuries, including severe injury and potentially permanent injury to his emotional and psychological well-being.

89. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**TENTH CAUSE OF ACTION
BREACH OF DUTY *IN LOCO PARENTIS*
AGAINST SCCSD AND DUPONT**

90. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “32” as if fully set forth herein.

91. While Plaintiff was a minor, Plaintiff was entrusted by his parents to the control and supervision of SCCSD. During the times that Plaintiff was entrusted to DuPont, DuPont was under the supervision and control of Defendant SCCSD. These Defendants owe – and owed – a duty to children entrusted to them to act *in loco parentis* and to prevent foreseeable injuries. .

92. At all times material hereto, Defendants actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

93. As a direct result of Defendants, Plaintiff has suffered the injuries and damages described herein.

94. By reason of the foregoing, Defendants, jointly severally, and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**ELEVENTH CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY
AGAINST SCCSD**

95. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “32” as if fully set forth herein.

96. While Plaintiff was a minor, Plaintiff was entrusted by his parents to the control and supervision of SCCSD and DuPont. During the times that Plaintiff was entrusted to DuPont, DuPont was under the supervision and control of Defendants SCCSD.

97. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendant SCCSD, this relationship is based on the entrustment of the Plaintiff while he was a minor child to the care and supervision of the Defendants SCCSD. This entrustment of the Plaintiff to the care and supervision of Defendants SCCSD, while Plaintiff was a minor child, required these Defendants to assume a fiduciary relationship and to act in the best interests of the Plaintiff and protect Plaintiff due to infancy and vulnerability.

98. Pursuant to their fiduciary relationship, Defendants SCCSD was entrusted with the well-being, care, and safety of Plaintiff.

99. Pursuant to their fiduciary relationship, Defendants SCCSD assumed a duty to act in the best interests of Plaintiff.

100. Defendants SCCSD breached their fiduciary duties to Plaintiff.

101. At all times material hereto, Defendant SCCSD's actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

102. As a direct result of Defendant SCCSD, Plaintiff has suffered the injuries and damages described herein.

103. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**TWELVTH CAUSE OF ACTION
BREACH OF NON-DELEGABLE DUTY
AGAINST SCCSD**

104. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “32” as if fully set forth herein.

105. While Plaintiff was a minor, Plaintiff was entrusted by his parents to the control and supervision of SCCSD, for the purposes of, *inter alia*, providing Plaintiff with a safe environment in which to pursue his education. There existed a non-delegable duty of trust between Plaintiff and Defendant.

106. Plaintiff was a vulnerable child when placed within the care of the Defendant SCCSD.

107. As a consequence, Defendant SCCSD was in the best position to prevent DuPont’s sexual abuse of Plaintiff, to learn of that sexual abuse of Plaintiff and stop it, and to take prompt steps to provide that Plaintiff received timely therapy to address the harm Plaintiff suffered resulting from DuPont’s sexual abuse of Plaintiff. Such prompt steps would have mitigated the extent of lifetime suffering Plaintiff has had to endure.

108. By virtue of the fact that Plaintiff was sexually abused as a minor child entrusted to the care of the Defendant SCCSD breached their non-delegable duty to Plaintiff.

109. At all material times hereto, DuPont was under the supervision, employ, direction and/or control of Defendant SCSD.

110. As a direct result of Defendant SCCSD, Plaintiff has suffered the injuries and damages described herein.

111. By reason of the foregoing, Defendant is liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

WHEREFORE, Plaintiff, demands judgment against the Defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be provide at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction; extent permitted by law;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding costs and fees of this action, including attorneys' fees to the extent permitted by law;
- D. Awarding prejudgment interest to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.


JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: New York, New York
September 3, 2019

Respectfully Submitted,

HACH ROSE SCHIRIPPA & CHEVERIE, LLP


MICHAEL ROSE, ESQ.
HILLARY M. NAPPI, ESQ.
112 Madison Avenue, 10th Floor
New York, New York 10016
212-213-8311

Attorneys for Plaintiff Douglas Woodin

ATTORNEY VERIFICATION

HILLARY NAPPI, an attorney duly admitted and licensed to practice law in the courts of the State of New York, hereby affirms, pursuant to CPLR ¶ 2106, states under the penalty of perjury, as follows:

I am an associate at Hach Rose Schirripa & Cheverie LLP, attorneys for the Plaintiff herein, and as such, fully familiar with all the facts and circumstances heretofore stated herein by reason of a file maintained in our office located at 112 Madison Avenue, 10th floor, New York, New York 10016; I have read the foregoing Complaint, and the same is true to our own knowledge, except as to the matters therein stated to be alleged upon information and belief and, as to those matters, we believe them to be true; and that this verification is being made by us because the Plaintiff does not reside within New York County wherein our office is located.

Dated: September 3, 2019
New York, New York

Hillary Nappi